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Letter dated 2 February 2009 from the Secretary-General to the President of the Security Council

I have the honour to inform you that I have received from the Government of Pakistan a request that I establish an international commission in connection with the assassination on, 27 December 2007, of the former Prime Minister of Pakistan, Mohtarma Benazir Bhutto. I am mindful of the determination and efforts made by Pakistan to search for the truth and bring to justice all financiers, perpetrators, organizers, sponsors and conspirators of this terrorist act so that they will be held accountable.

Following receipt of the request from the Government of Pakistan, and after extensive discussions with the Pakistani authorities as well as with members of the Security Council, it has been agreed that the international commission should be fact-finding in nature and that its mandate would be to determine the facts and circumstances of the assassination of former Prime Minister of Pakistan, Mohtarma Benazir Bhutto.

On this basis, I wish to accede to the Pakistani request and intend to establish a three-member Commission of Inquiry.

I enclose with the present letter the draft terms of reference for the proposed commission (see annex). You will note that the commission's mandate would be of a limited duration (a maximum of six months), and would not extend to carrying out a criminal investigation. The duty of determining criminal responsibility of the perpetrators of the assassination would remain with the Pakistani authorities. The international commission would enjoy the full cooperation of the Pakistani authorities and be accorded the privileges, immunities and facilities necessary for the independent conduct of the inquiry, including, in particular, unhindered access to all relevant sources of information. The international commission may request cooperation of a third State in the collection of materials or information relevant to the case. I count on the full cooperation of Member States with such a request.

The international commission would be composed of a panel of three eminent personalities having the appropriate experience and a reputation for probity and impartiality. It would be staffed in a manner to enable it to carry out its duties effectively. The specific details of the logistical, financial, security and human resources requirements of the commission would be determined based on the results of a small security and technical mission that would be dispatched to Pakistan and other places, as necessary, in light of the Security Council's support for the establishment of the commission.

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The international commission would be funded by voluntary contributions from Member States. Pakistan has offered to provide "seed money" to an appropriate United Nations trust fund to help an early deployment of security and technical assessment missions. The Secretariat is engaged in discussions with the Pakistani authorities as to the size and nature of a Pakistani contribution, mindful of the importance of maintaining the independence and impartiality of the commission.

I shall decide upon a date for the international commission to commence its operations once I have received sufficient voluntary contributions to cover the work of the commission in its entirety.

(*Signed*) **Ban** Ki-moon

Annex

Terms of reference of the Commission of Inquiry

1. At the request of the Government of Pakistan that the Secretary-General establish an international commission for the purpose of investigating the assassination, on 27 December 2007, of the former Prime Minister of Pakistan, Mohtarma Benazir Bhutto, and after extensive consultations with Pakistani officials as well as with members of the Security Council, I have decided to appoint a three-member Commission of Inquiry to determine the facts and circumstances of the assassination of the former Prime Minister.

2. In the conduct of its inquiry, the Commission shall enjoy the full cooperation of the Government of Pakistan. The Government shall comply with the requests of the Commission for assistance in collecting the required information and testimony, and shall provide it with the necessary facilities to enable it to discharge its mandate. It shall, in particular, guarantee to the Commission:

(a) Freedom of movement throughout the territory of Pakistan, including facilities of transport;

(b) Free access to all places and establishments relevant to the work of the Commission;

(c) Freedom of access to all sources of information, including documentary material and physical evidence, freedom to interview representatives of governmental, as well as other institutions and, in principle, any individual whose testimony is considered necessary for the fulfilment of its mandate;

(d) Appropriate security arrangements for the personnel, documents, premises and other property of the Commission;

(e) Protection for all those who appear before or provide information to the Commission in connection with the inquiry; no such person shall, as a result of such appearance or information, suffer harassment, threats of intimidation, ill-treatment, reprisals, or any other prejudicial treatment;

(f) Privileges, immunities and facilities necessary for the independent conduct of the inquiry. In particular, members of the Commission shall enjoy the privileges and immunities accorded to experts on missions under article VI of the 1946 Convention on the Privileges and Immunities of the United Nations, and to officials under articles V and VII of the Convention.

3. The Commission may approach third States with a request for cooperation in the collection of material or information relevant to the case and provision of expert personnel. In so doing, it may seek the assistance of the Government of Pakistan.

4. The Commission shall be composed of a panel of three eminent personalities having the appropriate experience and a reputation for probity and impartiality. The panel shall be assisted by the necessary staff as well as by administrative, security and technical staff.

5. The location of the Commission of Inquiry shall be determined by the Secretary-General.

6. The Commission shall submit its report to the Secretary-General within six months from the start of its activities. The Secretary-General will share the report with the Government of Pakistan and submit it to the Security Council for information.

7. The Commission shall be funded by voluntary contributions from Member States. A United Nations trust fund will be utilized to receive such contributions.

8. The Commission shall commence its activities on a date to be determined by the Secretary-General, which will be officially communicated to the Government of Pakistan.